

Grant R. Clayton
 Alan J. Howarth, Ph. D.
 Karl R. Cannon
 Clifford B. Vaterlaus
 Terrence J. Edwards
 Brett J. Davis
 Registered Patent Attorneys

Intellectual Property Law
 Patents • Trademarks
 Copyrights • Licensing
 Litigation • Trade Secrets
 Computer Law • Biotechnology
 Unfair Competition • Enforcement

Clayton, Howarth & Cannon
CHC
Attorneys At Law • A Professional Corporation

Mailing Address
 P.O. Box 1909
 Sandy, Utah 84091

Physical Address
 1225 East Fort Union Boulevard
 Suite 300
 Midvale, Utah 84047

Phone: (801) 255-5335
 Facsimile: (801) 255-5338
 Home Page: www.chcpat.com
 General E-mail: patlaw@chcpat.com

March 30, 2004

Mail Stop Patent Application
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

22553 U.S. PTO
 10/814432
 033004

Dear Sir:

Transmitted herewith for filing under 37 C.F.R. § 1.53(b) is a patent application entitled
 "Fence System with Variable Position Rail," comprising:

- X A continuing application as indicated below:
- Continuation of prior application no. _____, filed
 [date], which is hereby incorporated by reference in the enclosed
 application in its entirety.
- This continuation constitutes the enclosed true and complete copy of
 said prior application, together with any instructions or amendments
 provided herein or herewith.
- X Divisional of prior application no. 10/267,436 filed October 8, 2002, which
 is hereby incorporated by reference in the enclosed application in its entirety.
- X This divisional constitutes the enclosed true and complete copy of
 said prior application, together with any instructions or amendments
 provided herein or herewith.
- Continuation-in-part of prior application no. _____, filed
 [date] which is hereby incorporated by reference in the enclosed
 application in its entirety.
- A patent application claiming the benefit of U.S. Provisional Application No.
 /**,***, filed ***[date]***, which is hereby incorporated by reference in the
 enclosed application in its entirety.

CERTIFICATE OF MAILING BY EXPRESS MAIL LABEL NO. EV302977358US

Mailed: March 30, 2004

I hereby certify that this correspondence, and all enclosures indicated, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above in an envelope addressed to: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Respectfully submitted,

Karl R. Cannon

Karl R. Cannon
 Attorney Registration No. 36,468
 Attorney for Applicant

- ☒ Fifty-one (51) pages of specification, claims and abstract from the prior application.
- ☒ Six (6) sheets of ☐ formal/ ☒ informal drawings.
- ☒ Seven (7) sheets of ☒ formal/ ☐ informal drawings.
- ☒ Declaration, Power of Attorney and Petition.
 - ☐ Newly Executed
 - ☒ Copy from prior application (when a continuation or divisional) (37 C.F.R. § 1.63(d))
 - ☐ Associate or Substitute Power of Attorney
- ☐ Microfiche Computer Program (Appendix)
- ☐ Nucleotide and/or Amino Acid Sequence Submission
 - ☐ Computer Readable Copy
 - ☐ Paper Copy (identical to computer readable copy)
 - ☐ Statement verifying identity of above referenced copies

Also enclosed are:

- ☒ An Assignment from John T. Forbis, Randy Quaintance, and Ronald R. West to Kroy Building Products, Inc. (including assignment cover sheet)
- ☒ An Information Disclosure Statement under 37 C.F.R. §1.97 accompanied by a Form PTO-1449.
- ☒ A Preliminary Amendment, and the fee calculation set forth below is based upon the claims as constituted by said amendment.
- ☒ A return receipt postcard under MPEP § 503, indicating specially itemized enclosures.
- ☐ A Certificate Under 37 C.F.R. §3.73(b) to Establish Right of Assignee to Take Action.
- ☒ A Certificate of Express Mailing certifying a filing date of March 30, 2004, by use of Express Mail Label No. EV302977358US.
- ☐ A Declaration Claiming Small Entity Status for ***[independent inventor, etc.]***, under 37 C.F.R. §§ 1.9 and 1.27.

- ☐ A paper entitled "Establishment of Small Entity Status" under 37 C.F.R. § 1.28(a), along with a copy of the declaration claiming small entity status under 37 C.F.R. §§ 1.9 and 1.27 filed in the prior application.
- ☐ Certified copy of priority document(s) (if foreign priority is claimed).
- ☐ A copy of the extension of time simultaneously filed in the prior application.

Instructions and Averments:

- ☐ Incorporation by Reference (if a copy of the declaration from prior application is included). The entire disclosure of the prior application, from which a copy of the declaration is supplied herewith as referenced above, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ A Declaration Claiming Small Entity Status was filed in the prior application and such status is still proper and desired.
- ☐ Cancel in this application original claims _____ of the prior application before calculating the filing fee.
- ☐ Pursuant to 37 C.F.R. § 1.78(a)(2), and as indicated in the enclosed preliminary amendment, please amend the specification as follows:

FEES

- ☐ No Fees are enclosed.
- ☒ Check No. 7451 in the amount of \$1312.00 which represents the filing fee for this application.

The fees have been calculated as set forth below.

PATENT APPLICATION FEE CALCULATION TABLE							
			SMALL ENTITY			LARGE ENTITY	
	NO. FILED	NO. EXTRA	RATE	FEE	OR	RATE	FEE
BASIC FEE				\$ 335	OR		\$ 770
TOTAL CLAIMS	24 - 20 =	4	X 9 =	\$ -	OR	X 18 =	\$ 72
IND. CLAIMS	8 - 03 =	5	X 43 =	\$ -	OR	X 86 =	\$ 430
Presentation of Multiple Dependent Claims			+ 140 =	\$ -	OR	+ 270 =	\$ -
ASSIGNMENT RECORDATION FEE ()			+ 40 =	\$ -	OR	+ 40 =	\$ 40
			TOTAL:	\$ -	OR	TOTAL:	\$ 1312

The Commissioner is hereby authorized to charge payment of the following fees associated with this communication, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

☐ An original and one copy of this letter are enclosed.

☒ Any additional filing fees required under 37 C.F.R. § 1.16.

☐ Any patent application processing fees under 37 C.F.R. § 1.17.

The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application, if indicated by a marking below in the blank line corresponding to said fees, or credit any overpayment, to Deposit Account No. 50-0836.

☒ Any patent application processing fees under 37 C.F.R. § 1.17.

☐ The issue fee set forth in 37 C.F.R. § 1.18 at or before mailing of the Notice of Allowance, pursuant to 37 C.F.R. § 1.311(b).

☒ Any filing fees under 37 C.F.R. § 1.16 for presentation of extra claims.

CORRESPONDENCE ADDRESS

☒ Please address all future correspondence to:

Customer No. 20449

X Please direct all future telecommunications to:

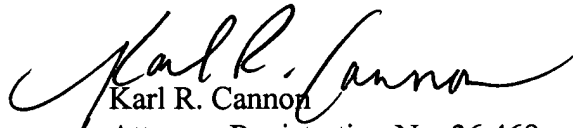
Karl R. Cannon
Clayton, Howarth & Cannon, P.C.
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

X Please refer to the following attorney docket number in all future correspondence and telecommunications:

T7611.DIV.2

Dated this 30 day of March, 2004.

Respectfully submitted,


Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, Utah 84091

KRC/kdl
Enclosures